

UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

JUDITH RÉ,

Plaintiff,

v.

JODI R.R. SMITH, AND  
BARNES & NOBLE, INC.,

Defendants.

Civil Action No. 04-11385-RGS

**DEFENDANTS' MOTION FOR SUMMARY JUDGMENT**

Pursuant to Fed. R. Civ. P. 56, Defendants Barnes & Noble, Inc. and Jodi R. R. Smith (collectively, "Defendants"), by their undersigned counsel, hereby move for Summary Judgment as to all counts of Plaintiff Judith Ré's ("Plaintiff") Complaint.

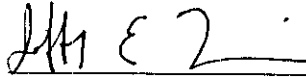
In support hereof, all as more fully set forth in the Rule 56.1 Statement of Undisputed Facts, memorandum of law and affidavits which accompany this motion, Defendants state that there are no material facts in dispute and that, under the relevant authorities, they are entitled to the above-requested Summary Judgment in their favor.

WHEREFORE, Defendants Barnes & Noble, Inc. and Jodi R. R. Smith respectfully request that the Court (i) enter Summary Judgment in their favor as to all counts of Plaintiff's Complaint; and (ii) grant such other and additional relief as the Court may deem just and proper.

Dated: November 24, 2004

DEFENDANTS JODI R. R. SMITH and  
BARNES & NOBLE, INC.

By their attorneys,



---

Richard S. Sanders (BBO # 562014)

Jeffery Francis (BBO# 639944)

SULLIVAN & WORCESTER LLP

One Post Office Square

Boston, Massachusetts 02109

(617) 338-2800

(617) 338-2880 facsimile

*jfrancis@sandw.com*

Erik W. Kahn

Daniel P. Waxman

Kira P. Watson

BRYAN CAVE LLP

1290 Avenue of the Americas

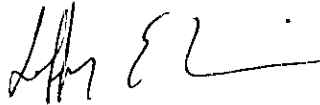
New York, New York 10104

(212) 541-2000

(212) 541-4630 facsimile

**LOCAL RULE 7.1 CERTIFICATION**

On November 24, 2004, counsel for Defendants conferred by telephone with counsel for the Plaintiffs and counsel for the Plaintiffs did not assent to the relief requested in this motion.



Jeffery Francis (BBO# 639944)  
SULLIVAN & WORCESTER LLP  
One Post Office Square  
Boston, Massachusetts 02109  
(617) 338-2800  
(617) 338-2880 facsimile  
*jfrancis@sandw.com*

**CERTIFICATE OF SERVICE**

I hereby certify that on this day a true copy of the above document was served upon the attorney of record for each party by mail by hand.

Date: 11-24-04

